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Attorney for Plaintiff  
GIULIO PALMA

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

GIULIO PALMA

Plaintiff,

vs.

UNITED STATES OF AMERICA; and DOES 1 to  
10, inclusive,

Defendants.

Case No. C 05 1129 PJH

**STIPULATION TO DISMISS COMPLAINT  
WITHOUT PREJUDICE ; AND ORDER**

Date: August 17, 2005

Time: 9:00 a.m.

Ctrm: 3 (17th Floor)

IT IS HEREBY STIPULATED, by and between the parties, through their respective counsel, as follows:

1. On March 18, 2005, Plaintiff, Guilio Palma, filed a complaint for declaratory judgment, damages, an injunction, and other relief based on federal and state law claims, against the United States of America.

2. On June 21, 2005, Defendant filed a motion to dismiss the complaint pursuant to F.R.C.P. 12(b)(1). In that motion, Defendant alleges, among other things, that this court lacks subject matter jurisdiction over Plaintiff's tort claims under the Federal Tort Claims Act because plaintiff has failed to

**STIPULATION TO DISMISS WITHOUT PREJUDICE**

1 exhaust his administrative remedies by filing an administrative claim under 28 U.S.C. § 2675.

2 3. Defendant's motion to dismiss was originally noticed for July 27, 2005, at 9:00 a.m.  
3 Notice was amended and the motion to dismiss is currently scheduled on August 17, 2005.

4 4. Plaintiff may dismiss his complaint without prejudice so that he may have an opportunity  
5 to exhaust his administrative remedies by filing an administrative claim under 28 U.S.C. § 2675.

6  
7 Respectfully submitted,

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9  
10 DATED: August 10, 2005

\_\_\_\_\_/s/\_\_\_\_\_  
BENJAMIN WINSLOW  
LAW OFFICES OF BENJAMIN WINSLOW


11  
12 Respectfully submitted,

13  
14  
15 DATED: August 10, 2005

\_\_\_\_\_/s/\_\_\_\_\_  
ANDREW Y.S. CHENG  
Assistant United States Attorney

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17  
18 **IT IS SO ORDERED.**

19  
20 DATED: August 15, 2005

  
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PHYLLIS J. HAMILTON  
United States District Judge